

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

Alcott HR Group LLC,

Plaintiff,

AFFIRMATION

v.

1:20-cv-00180

Edwin Gozdziaik, as Administrator of the
Estate of George Gozdziaik, and
Michelle L. Emser,

Defendants.

Michael E. Ferdman, affirms under penalty of perjury:

1. I am a partner with the firm of Barclay Damon, attorneys for Alcott HR Group LLC, Plaintiff in this interpleader action.

2. I submit this affirmation in support of Plaintiff's motion for a default judgment against defendant Edwin Gozdziaik as Administrator of the Estate of George Gozdziaik ("Gozdziaik").

3. Attached as Exhibit A is the clerk's entry of default against Gozdziaik.

4. Plaintiff commenced this interpleader action because both Gozdziaik and co-defendant Michelle Emser ("Emser") made competing claims for the proceeds of George Gozdziaik's multi-employer, fully vested, retirement plan account (the "Proceeds").

5. Unlike Gozdziaik, Emser served and filed an answer to Plaintiff's interpleader complaint. (Docket entry #7).

6. Plaintiff also seeks an order of this court that directs Plaintiff to pay over the Proceeds to Emser.

7. Plaintiff also seeks an order of this court awarding Alcott \$5,000 in legal fees and costs and directing Alcott to retain \$5,000 of the Proceeds for its legal fees and costs and to release the balance of the Proceeds to defendant Emser. Attached as Exhibit B is a stipulation between the attorneys for Emser and Alcott allowing \$5,000 to be deducted from the Proceeds for Alcott's legal fees.

DATED: September 8, 2020

/s/Michael E. Ferdman

Michael E. Ferdman